

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Status of Claims:

Claims 37-40 are currently being cancelled.

Claim 24 is currently being amended.

No claims are currently being added.

This amendment amends and cancels claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending and canceling the claims as set forth above, claims 24, 25, 27-30, 32-36 and 41-42 are now pending in this application.

Claim Rejections – 35 U.S.C. § 112, 1st Paragraph:

In the Office Action, claims 37-40 were rejected under 35 U.S.C. § 112, 1st paragraph, as being not enabled for a fluid concentrator, for the reasons set forth on page 2 of the Office Action. Due to the cancellation of claims 37-40, this rejection is now moot.

It is noted that the previous, non-entered ‘after final’ response filed on April 17, 2008 was discussed in the Advisory Action, whereby the Advisory Action asserted that the amendment to claim 24 to include the limitation of a specific location of the injection point for anesthesia constitutes new matter. This second after-final response clarifies that the anesthetic agent is a liquid, in accordance with page 19, lines 6-7 of the specification. Since the carrier gas stream is output from the carrier gas source 41, and since the anesthetic vaporizer 40 vaporizes the liquid anesthetic injected into the carrier gas stream, it must be the case that the liquid anesthetic is injected into the carrier gas stream at a location between the output of the carrier gas source 41 and the input to the anesthetic vaporizer 40. Thus, presently pending claim 24 is fully supported by page 19, line 5 to page 20, line 6 of the specification.

Claim Rejections – Prior Art:

In the Office Action, claims 24, 25, 27-30, 32-36, 41 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rusz (US 5,546,931) in view of Lewis (US 5,571,401); and claims 37-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rusz in view of Lewis and further in view of Georgieff et al. (US 5,520,169). These rejections are traversed for at least the reasons given below.

In its rejection of claim 24, the Office Action asserts that “Applicant has not provided any disclosure of an injection element in the Specification. Given its broadest reading, then, the term ‘inject’ merely means ‘to force a fluid into something.’ The Examiner submits that the port (19) of Rusz serves this function; anesthetic flows from the vaporization chamber (26) via the outlet port (28) to a pump (30) where it is forced through the port (19) and into the carrier gas stream flowing in the carrier gas conduit (12).”

While Applicants do not disagree with the Examiner’s description of the operation of Rusz’s system, claim 24 has been amended to clarify that the liquid anesthetic agent is injected directly into the carrier gas stream output from the carrier gas source, prior to the carrier gas stream coming into contact with the vaporizing chamber. See the description on page 19, lines 5-10 of the specification, which describes the direct injection of a liquid anesthetic agent into the carrier gas stream, which clearly means that this injection is performed prior to the carrier gas stream coming into contact with the vaporizing chamber 40 (see Figure 4 of the drawings), since that is where the liquid anesthetic agent is vaporized into a gas.

Since Rusz injects an anesthetic agent into a carrier gas stream after or at the same time the carrier gas stream has come into contact with a vaporizing chamber, as seen in Figures 1 and 6 of Rusz, and since none of the other cited art of record rectifies these deficiencies of Rusz, presently pending independent claim 24 is patentable over the cited art of record.

Conclusion:

Since all of the issues raised in the Office Action have been addressed in this Amendment and Reply, Applicants believe that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4059
Facsimile: (202) 672-5399

By Phillip J. Articola

Phillip J. Articola
Registration No. 38,819